

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 395

Introduced by Senator Escutia
(Principal coauthor: Senator Migden)
(Coauthor: Senator Alquist)

February 17, 2005

An act to add Chapter 5.8 (commencing with Section 70501) and Chapter 5.9 (commencing with Section 70601) to Title 8 of the Government Code, relating to ~~financing the construction and renovation of court facilities, by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds.~~ *court facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 395, as amended, Escutia. California Court Facilities Bond Act of 2006.

Existing law, the Trial Court Facilities Act of 2002, establishes the State Court Facilities Construction Fund and provides that money in that fund may be used to acquire, rehabilitate, construct, or finance court facilities, as defined, and to implement trial court projects, as specified.

This bill would enact the California Court Facilities Bond Act of 2006 which, ~~if adopted~~, would authorize, *for display purposes only*, the issuance, pursuant to the State General Obligation Bond Law, of an unspecified amount in bonds, the proceeds of which would be deposited in the 2006 California Court Facilities Bond Act

Construction Fund for specified purposes relating to the acquisition and maintenance of court facilities, including payment of a county's share of building costs in a shared-use court facility.

The bill would, *for display purposes only*, provide for submission of the bond act to the voters at the next statewide election in accordance with specified law. The bill also would, *for display purposes only*, impose certain duties on the Judicial Council, and would authorize, *for display purposes only*, the lease financing of shared-use court facilities in connection with applying bond proceeds to the county's share of building costs.

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 as follows:

3 (1) Under the Trial Court Facilities Act of 2002, trial court
4 facilities have been and will be transferred from county to state
5 ownership and responsibility in an effort to ensure uniformity of
6 access to all court facilities in California.

7 (2) Under the Trial Court Facilities Act of 2002, the state
8 generally is required to accept transferred facilities in an as-is
9 condition, although the state can reject facilities that are seriously
10 deficient.

11 (3) Many of the court facilities that are or will become the
12 responsibility of the state are obsolete or have suffered from
13 deferred maintenance due to the fiscal condition of the counties
14 and the state. The Task Force on Court Facilities identified 90
15 percent of existing buildings in need of replacement or
16 significant renovation, repair, or maintenance.

17 (4) Some of the court facilities that are or will become the
18 responsibility of the state do not provide appropriate access to the
19 disabled.

20 (5) Some of the court facilities that are or will become the
21 responsibility of the state lack adequate safety and security.

22 (6) Some of the court facilities that are or will become the
23 responsibility of the state are in need of significant seismic
24 retrofitting and upgrading. Over 60 percent of the buildings
25 containing court facilities have significant seismic deficiencies.

(b) It is the intent of the Legislature, in enacting this bill, to place on the next statewide primary or general election ballot, a _____ dollars (\$____) bond act for both of the following:

(1) The acquisition, construction, and renovation of court facilities and buildings containing those facilities in California including, but not limited to, providing disabled access, safety and security, and seismic upgrading.

(2) In the discretion of the Judicial Council, the acquisition and construction of new replacement facilities, or renovation of existing transferred facilities, including, but not limited to, providing disabled access, safety and security, and seismic upgrading of shared-use buildings in which the Judicial Council and a county share the facility, which shall be provided to a participating county through a lease financing arrangement entered into pursuant to Sections 70601 to 70603, inclusive, in which the county shall be obligated to repay its share of the costs paid by the Judicial Council in accordance with the terms of the lease financing arrangement.

SEC. 2. Chapter 5.8 (commencing with Section 70501) is added to Title 8 of the Government Code, to read:

CHAPTER 5.8. CALIFORNIA COURT FACILITIES BOND ACT OF
2006

Article 1. General Provisions

70501. This chapter shall be known, and may be cited, as the California Court Facilities Bond Act of 2006.

70502. As used in this chapter, the following terms have the following meanings:

(a) "Board" means the Judicial Council created by Section 6 of Article VI of the California Constitution, as designated in accordance with subdivision (b) of Section 70509.

(b) "Committee" means the California Court Facilities Construction Committee created pursuant to subdivision (a) of Section 70509.

(c) "Fund" means the 2006 California Court Facilities Bond Act Construction Fund created pursuant to Section 70503.

(d) “Lease financing” means a lease financing entered into between the Judicial Council and a county pursuant to Sections 70601 to 70603, inclusive.

Article 2. Court Facilities

70503. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the State Treasury in the 2006 California Court Facilities Bond Act Construction Fund, which is hereby created. ~~Notwithstanding Section 13340, moneys~~ *Moneys* in the fund ~~are continuously appropriated~~ *shall be available for appropriation by the Legislature* to the Judicial Council to carry out the purposes set forth in Section 70504.

70504. Money in the fund shall be used by the Judicial Council only for one or more of the following purposes:

- (a) Design of court facilities.
- (b) Acquisition or construction of court facilities.
- (c) Acquisition of the fee ownership of real property upon which a new court facility may be constructed.
- (d) Performing maintenance or repair of court facilities.
- (e) Renovating court facilities.
- (f) Performing seismic upgrading of court facilities.
- (g) Paying pursuant to lease financing for the county’s share of the costs in a shared-use facility for one or more of the design, acquisition, construction, maintenance, repair, renovation, or seismic upgrading of the portion of a building containing trial court facilities that is the responsibility of a county.
- (h) Paying administrative costs incurred by the Judicial Council in carrying out this chapter, which shall not exceed _____ percent of the principal amount of bonds issued under this chapter.

70505. In determining the purposes for which the funds shall be used pursuant to Section 70504, the Judicial Council shall do all of the following:

- (a) Adopt and modify as appropriate a list of potential projects.
- (b) Adopt and implement standards for establishing priorities among the projects so as to achieve the purposes of Section 70504 and to ensure, to the extent possible, the equal access to justice for all Californians.

(c) Adopt and implement a method of ensuring that all areas of the state and all sizes of counties are fairly treated in regard to facility needs.

(d) Adopt and implement a method of determining whether to allocate some part of the money in the fund for the purposes set forth in subdivision (g) of Section 70504 and Sections 70601 to 70603, inclusive, and, if some money is so allocated, establishing, to the extent possible, fair treatment of the counties requesting funds. In so doing, the Judicial Council shall adopt a procedure for counties to make requests for money. The method developed by the Judicial Council under this subdivision shall recognize the unique nature of a building used for both court and noncourt purposes.

Article 3. Fiscal Provisions

70507. Bonds in the total amount of _____ dollars (\$____), or so much thereof as is necessary, not including the amount of any refunding bonds, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

70508. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter, except Section 16727 to the extent that it may be inconsistent with this chapter.

70509. (a) Solely for the purpose of authorizing the issuance and sale pursuant to the State General Obligation Bond Law of the bonds authorized by this chapter, the California Court Facilities Construction Committee is hereby created. For purposes of this chapter, the California Court Facilities

1 Construction Committee is “the committee” as that term is used
2 in the State General Obligation Bond Law. The committee
3 consists of the Treasurer, the Controller, the Director of Finance,
4 one member appointed by the Speaker of the Assembly, one
5 member appointed by the President pro Tempore of the Senate,
6 the Administrative Director of the Courts, and one member of the
7 Judicial Council selected by the Judicial Council, or their
8 designated representatives. The Treasurer shall serve as
9 chairperson of the committee. A majority of the committee may
10 act for the committee.

11 (b) For purposes of the State General Obligation Bond Law,
12 the Judicial Council is designated the “board.”

13 70510. The committee shall determine whether or not it is
14 necessary or desirable to issue bonds authorized pursuant to this
15 chapter in order to carry out the actions specified in Section
16 70504 and, if so, the amount of bonds to be issued and sold.
17 Successive issues of bonds may be authorized and sold to carry
18 out those actions progressively, and it is not necessary that all of
19 the bonds authorized to be issued be sold at any one time.

20 70511. There shall be collected each year and in the same
21 manner and at the same time as other state revenue is collected,
22 in addition to the ordinary revenues of the state, a sum in an
23 amount required to pay the principal of, and interest on, the
24 bonds each year. It is the duty of all officers charged by law with
25 any duty in regard to the collection of the revenue to do and
26 perform each and every act that is necessary to collect that
27 additional sum.

28 70512. Notwithstanding Section 13340, there is hereby
29 appropriated from the General Fund in the State Treasury, for the
30 purposes of this chapter, an amount that will equal the total of the
31 following:

32 (a) The sum annually necessary to pay the principal of, and
33 interest on, bonds issued and sold pursuant to this chapter, as the
34 principal and interest become due and payable.

35 (b) The sum necessary to carry out Section 70513,
36 appropriated without regard to fiscal years.

37 70513. For the purposes of carrying out this chapter, the
38 Director of Finance may authorize the withdrawal from the
39 General Fund of an amount not to exceed the amount of the
40 unsold bonds that have been authorized by the committee to be

1 sold for the purpose of carrying out this chapter. Any amounts
2 withdrawn shall be deposited in the fund. Any money made
3 available under this section shall be returned to the General Fund,
4 plus an amount equal to the interest that the money would have
5 earned in the Pooled Money Investment Account, from proceeds
6 received from the sale of bonds for the purpose of carrying out
7 this chapter.

8 70514. All money deposited in the fund that is derived from
9 premium and accrued interest on bonds sold shall be reserved in
10 the fund and shall be available for transfer to the General Fund as
11 a credit to expenditures for bond interest.

12 70515. Pursuant to Chapter 4 (commencing with Section
13 16720) of Part 3 of Division 4 of Title 2, the cost of bond
14 issuance shall be paid out of the bond proceeds. These costs shall
15 be shared proportionally by each program funded through this
16 bond act.

17 70516. The Judicial Council may request the Pooled Money
18 Investment Board to make a loan from the Pooled Money
19 Investment Account, including other authorized forms of interim
20 financing that include, but are not limited to, commercial paper,
21 in accordance with Section 16312, for purposes of carrying out
22 this chapter. The amount of the request shall not exceed the
23 amount of the unsold bonds that the committee, by resolution,
24 has authorized to be sold for the purpose of carrying out this
25 chapter. The Judicial Council shall execute any documents
26 required by the Pooled Money Investment Board to obtain and
27 repay the loan. Any amounts loaned shall be deposited in the
28 fund to be allocated by the Judicial Council in accordance with
29 this chapter.

30 70517. The bonds may be refunded in accordance with
31 Article 6 (commencing with Section 16780) of Chapter 4 of Part
32 3 of Division 4 of Title 2, which is a part of the State General
33 Obligation Bond Law. Approval by the voters of the state for the
34 issuance of the bonds described in this chapter includes the
35 approval of the issuance of any bonds issued to refund any bonds
36 originally issued under this chapter or any previously issued
37 refunding bonds.

38 70518. Notwithstanding any other provision of this chapter,
39 or of the State General Obligation Bond Law, if the Treasurer
40 sells bonds pursuant to this chapter that include a bond counsel

1 opinion to the effect that the interest on the bonds is excluded
2 from gross income for federal tax purposes, subject to designated
3 conditions, the Treasurer may maintain separate accounts for the
4 investment of bond proceeds and for the investment of earnings
5 on those proceeds. The Treasurer may use or direct the use of
6 those proceeds or earnings to pay any rebate, penalty, or other
7 payment required under federal law or take any other action with
8 respect to the investment and use of those bond proceeds
9 required or desirable under federal law to maintain the
10 tax-exempt status of those bonds and to obtain any other
11 advantage under federal law on behalf of the funds of this state.

12 70519. The Legislature hereby finds and declares that,
13 inasmuch as the proceeds from the sale of bonds authorized by
14 this chapter are not “proceeds of taxes” as that term is used in
15 Article XIII B of the California Constitution, the disbursement of
16 these proceeds is not subject to the limitations imposed by that
17 article.

18 70520. Notwithstanding any other provision of law, it is the
19 intent of the Legislature and the people that the enactment of this
20 act shall not be used for, nor shall it cause a reduction in the
21 amount of, funding to the courts and the Judicial Council for any
22 purpose, including, but not limited to, facilities.

23 SEC. 3. Chapter 5.9 (commencing with Section 70601) is
24 added to Title 8 of the Government Code, to read:

25
26 CHAPTER 5.9. LEASE FINANCING OF COURT FACILITIES
27

28 70601. (a) If the Judicial Council takes action to design,
29 acquire, construct, maintain, repair, renovate, or seismically
30 upgrade the portion of a building containing trial court facilities
31 that is also used by a county for noncourt purposes, the county
32 may request that the Judicial Council enter into a lease financing
33 with the county in order to apply money in the Court Facilities
34 Bond Act Fund to pay for the county’s share of the design,
35 acquisition, construction, maintenance, repair, renovation, or
36 seismic upgrade of the building. Under the lease financing, the
37 county shall be obligated to pay rent in an amount that will repay
38 the Judicial Council for the county’s share of the total principal
39 and interest and other expenses of the bond for the life of the
40 bond, based on the ratio of the amount paid for the county’s share

1 in the building costs to the total principal of the bonds. Rental
2 payments received by the Judicial Council from a county shall be
3 deposited in the manner set forth in subdivision (b).

4 (b) Rental payments received by the Judicial Council from a
5 county shall be deposited in the State Treasury to a rental
6 payments subaccount within the 2006 California Court Facilities
7 Bond Act Construction Fund created pursuant to Section 70503.
8 Notwithstanding Section 13340, moneys in the rental payments
9 subaccount within the fund are continuously appropriated to the
10 Judicial Council to carry out the purposes set forth in Section
11 70504.

12 70602. (a) Exclusively for the purpose of providing the lease
13 financing of shared-use court facilities in connection with the
14 application of the proceeds of bonds issued pursuant to Chapter
15 5.8 (commencing with Section 70501), and notwithstanding any
16 other provision of law, the Judicial Council may buy or lease
17 from any county shared-use court facilities identified by and
18 under the jurisdiction or control of the county, and, in that
19 connection, the Judicial Council may then sell or lease those
20 shared-use court facilities back to the county. In each case, the
21 sale or lease shall provide installment payment or rental
22 provisions, term, payment, security, default, remedy, and other
23 terms or provisions as may be specified in the installment sale,
24 lease, or other agreement or agreements between the Judicial
25 Council and the county. The shared-use court facilities that are
26 sold or leased pursuant to this section may be either existing
27 shared-use court facilities or unrelated real property and
28 improvements of the Judicial Council or the county that are
29 proposed for shared use, as determined by the Judicial Council
30 and the county, and that are also determined to have both of the
31 following:

32 (1) A fair market value that is not less than the principal
33 amount of the bonds issued pursuant to Chapter 5.8
34 (commencing with Section 70501) and applied by the Judicial
35 Council for the purpose of providing the lease financing of
36 shared-use court facilities pursuant to this section.

37 (2) An economic useful life that is not shorter than the final
38 maturity of the bonds issued pursuant to Chapter 5.8
39 (commencing with Section 70501) and applied by the Judicial

1 Council for the purpose of providing the lease financing of
2 shared-use court facilities pursuant to this section.

3 (b) These determinations by the Judicial Council and the
4 county pursuant to this section shall be final and conclusive.

5 70603. Exclusively for the purpose of securing the lease
6 financing of shared-use court facilities pursuant to this chapter,
7 and notwithstanding any other law, any county may buy or lease
8 shared-use court facilities from the Judicial Council, and in
9 connection therewith, sell or lease shared-use court facilities to
10 the Judicial Council, in each case with the installment payment or
11 rental provisions, term, payment, security, default, remedy, and
12 other terms or provisions as may be specified in the installment
13 sale, lease, or other agreement or agreements, between the
14 Judicial Council and the county. This section provides a
15 complete, additional, and alternative method for performing the
16 acts authorized by this section, and any sale or lease of
17 shared-use court facilities to the Judicial Council or any county,
18 any purchase or lease of public buildings or equipment, or both,
19 from the Judicial Council or any county, and any agreement for
20 liquidity or credit enhancement in connection therewith, pursuant
21 to this section, need not comply with the requirements of any
22 other law applicable to sale, purchase, lease, or credit, as the case
23 may be, by a county.

24 SEC. 4. Sections 2 and 3 of this act shall take effect upon the
25 adoption by the voters of the California Court Facilities Bond
26 Act of 2006, as set forth in Section 2 of this act.

27 SEC. 5. Section 2 of this act shall be submitted to the voters
28 at the next statewide election in accordance with provisions of
29 the Government Code and the Elections Code governing the
30 submission of a statewide measure to the voters.

31 SEC. 6. (a) Notwithstanding any other provision of law, all
32 ballots of the election shall have printed thereon and in a square
33 thereof, the words: "California Court Facilities Bond Act of
34 2006," and in the same square under those words, the following
35 in eight-point type: "This act provides for a bond issue of ____
36 dollars (\$____) to provide funds for court facilities." Opposite
37 the square, there shall be left spaces in which the voters may
38 place a cross in the manner required by law to indicate whether
39 they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(c) Notwithstanding Section 13282 of the Elections Code, the public shall be permitted to examine the condensed statement of the ballot title in subdivision (a) for not more than eight days, and the financial impact statement from the time it is received by the Secretary of State until the end of the eight days. Any voter may seek a writ of mandate for the purpose of requiring any statement of the ballot label, or portion thereof, to be amended or deleted only within that eight-day period.

(d) Where the voting in the election is done by means of voting machines used pursuant to law in a manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 7. (a) (1) Notwithstanding any other provision of this act, any bond authorized to be issued or sold pursuant to this act, and any appropriation made in this act for any purpose, are set forth for display purposes only and do not constitute an appropriation, debt, or liability.

(2) No funds or bonds identified in this act, regardless of the context, shall be available, authorized, or issued for any purpose until expressly appropriated, authorized, or issued by another act.

(b) No portion of this act shall be submitted to the voters of the State of California.